

# **MINUTES OF THE MEETING OF THE SPECIAL LICENSING SUB COMMITTEE HELD ON FRIDAY, 14TH OCTOBER, 2016, Times Not Specified**

## **PRESENT:**

**Councillors: Dhiren Basu, Toni Mallett and Jennifer Mann**

### **22. FILMING AT MEETINGS**

Noted.

### **23. APOLOGIES FOR ABSENCE**

None.

### **24. URGENT BUSINESS**

It being a special meeting, under Part Four, Section B, Paragraph 17, of the Council's Constitution, no other business shall be considered at the meeting.

### **25. DECLARATIONS OF INTEREST**

None.

### **26. SUMMARY OF PROCEDURE**

Noted.

### **27. N17 LOUNGE, 614 HIGH ROAD, N17**

Daliah Barrett, Licensing Officer, introduced the report as set out. The application was for a number of contested Temporary Event Notices. The Applicant was requesting an extension his current licensed hours. A number of TENs have been requested for, including for events on 16 & 17 October – this TEN had been refused due the late application.

Representations had been received from the Police and Enforcement Response, under the grounds of crime and disorder.

The hours being applied for on the TENs was seeking to continue licensed activity from 4am to 7am on Saturday and Sunday night. The existing licence as amended at the Licensing Review Hearing on 15 September 2016 allowed licensable activities until midnight – if the TENs were approved, then licensable activities would have to be

suspended from midnight until 4am. It was not felt that the Applicant understood the terms of his licence.

Ms Barrett requested clarification on the dates applied for, as many of the dates were for Sunday and Monday nights. The Applicant, Mr Mufwankolo, clarified that he wanted to apply for an extension on Saturday nights to Sunday morning and Sunday night to Monday morning. For example, 23 November was for an extension of Saturday nights activities, from 4am on Sunday 23 November to 7am on that same day.

The premises had been subject to a review previously due to public nuisance issues. One resident had previously contacted the Licensing Authority to say that the late night opening hours had reduced the quality of life for her and her family, there was excess noise from the premises from people attending the premises and she was unhappy with the disturbance and did not want it to continue.

Ms Barrett explained that the Committee could grant the TENs, refuse the TENs, or grant with conditions which must be already included in the current licence.

Derek Pearce, Enforcement Officer, presented his representation against the application. The current licence specified when the premises could sell alcohol and provide regulated entertainment. The current licence had conditions in order to limit the noise emanating from the premises when regulated entertainment was taking place.

On 25 July, officers visited the premises in response to a noise complaint. The noise was found to be excessive, and on investigation, a speaker was found outside of the premises, and was turned off by the premises after it was requested. A proactive visit was carried out between 5-7am and the noise from customers was found to be excessive. The noise generated by patrons after closing time was found to be likely to cause disturbance to local residents.

A further visit had taken place and the officer had parked on Pembury Road, where the noise from the premises and customers was found to be too loud.

Enforcement Response felt that the Applicant was not keeping to the conditions of his licence, and considered that granting the TENs applications would undermine the decision made by the Licensing Sub Committee on 15 September to reduce the operating hours and modify the conditions of the licence. The hours were reduced on a Friday and Saturday to close at 0030, with regulated entertainment finishing 30 minutes prior to this. It was not considered acceptable to grant a TENs application to continue activities from 4-7am.

PC Mark Greaves presented the Metropolitan Polices representations against the application. The venue was not known as an issue of crime and disorder. On 29 August 2016, an incident had occurred and a number of things were clear – alcohol was being sold after hours, regulated entertainment was continuing, smoking was taking place outside of the premises and customers had remained. It was considered that the management of the premises was not acceptable as the licensable activities were continuing after the permitted hours.

PC Greaves considered that the granting of the TENs would undermine the licensing objectives. PC Greaves had visited the premises to discuss issues of anti-social behaviour with the Applicant. The Applicant had stated that by extending the closing time until 7am, local residents would be waking up for work and therefore would not be disturbed by customers leaving the premises. PC Greaves considered that if the closing time was extended that this may encourage people to try to visit the premises at a later time and may cause further noise disturbance to local residents.

PC Greaves asked the Applicant why an interior door in the premises had been kept open, when it stated on the licence that it must be closed. Mr Mufwankolo explained that he used this door to allow patrons to go outside to smoke, and that this was controlled by a door supervisor who would open and close the door behind them.

PC Greaves showed a CCTV video from 29 August at 03.27, which showed customers smoking outside, with a side door open (which was the corridor to the toilets, and led to another door which would lead into the premises). There was music playing inside the premises, which would be able to be heard outside the premises, via this open door. Mr Mufwankolo reiterated that only 5 people were permitted to use the smoking area at one time. In response to PC Greaves' remark that there were clearly more than 5 people in the smoking area, Mr Mufwankolo explained that when he closed the premises, he used the gate in the smoking area to move people outside of the premises, rather than the front door, which was locked. PC Greaves stated that there were clearly more than five people using the smoking area, causing noise disturbance, and this would be likely to continue if the venue was open until 7am.

Further CCTV was shown of the inside of the premises at 0404 on 29 August, and showed a number of patrons still inside of the premises. Mr Mufwankolo stated that the bar staff were not serving customers, and that he could not be expected to clear a bar of 100 patrons by 4am at the same time. Ms Barrett explained that the 30 minute drinking up time should be used as time to start clearing the premises. The CCTV continued until 0420, where patrons were still using the premises. Evidence was shown of alcohol being sold at 0337, 0345, 0353; and the music was still playing. The CCTV showed customers leaving the premises at 0417. PC Greaves considered that this demonstrated a lack of management at the premises.

The Applicant, Mr Mufwankolo, presented his application for TENs. He had operated the premises since 2010, and had been granted TENs until 7am, without any objections since that time. Since the Police visit in August, he had put in a number of measures to address the issues raised, and since the visits made by Enforcement Response, no further incidents had occurred. Since 2010, the licence opening times had been increased from 2am until 4am, and the Licensing Authority had not had any cause not to increase this licence. He accepted that mistakes had happened, but he considered that he was a proper and fit person to run the premises. The police had stated that the venue was not known for crime at the premises. Mr Mufwankolo had increased security at the premises, and had hired a CCTV van to record the front door, on top of existing security; only 5 people were allowed to smoke outside; when closing the premises, people were made to use the doors on Scotland Green Road, and this was carried out with small groups of people at the time. Mr Mufwankolo considered that the approach of removing patrons gradually was the best way to limit

the nuisance to residents. He explained that he had taken measures to prevent disturbing neighbours by stopping cars driving and parking in the alleyway next to the premises; he and his staff patrolled the locality of the premises to ensure that no disturbance was occurring. He had introduced a wand search of any customers entering the premises. Mr Mufwankolo referred to the incident where the speaker was left outside of the premises, and explained that this was due to the furniture being moved around inside the premises, and the speaker had been taken outside by mistake, and was moved back inside the premises as soon as it was pointed out by the Enforcement Officer.

Ms Barrett explained that a TEN must be submitted 10 clear working days before a meeting, and any received late would be refused, and could not be considered by the Licensing Committee.

Councillor Mallett (Chair) asked Mr Mufwankolo how he would address the issue of licensable activities finishing at 0330, and the TEN beginning at 0400. Mr Mufwankolo, asked what licence finished at 0330. He stated that he was applying for a TEN to begin once his current licence finished at 0400, and he reiterated that he had been granted TENs previously. He added that if the Licensing Authority said that he would not be allowed to sell alcohol or provide regulated entertainment between 0330 and 0400, then he would comply with this request.

The Chair asked how he would deal with people leaving the premises at 7am, when there would potentially be people going to work, and children going to school. Mr Mufwankolo explained that he would have people leaving the premises in small groups.

The Chair asked the parties to sum up their presentations.

Derek Pearce referred to an email from the Applicant to the Licensing Officer in which he accepted that the noise nuisance from people leaving the premises was disturbing to local people and had requested that the hours be pulled back to 0030. For this reason, the Enforcement Officer considered that it would not be appropriate to grant the TENs.

PC Greaves reiterated his concerns with the extension of the sale of alcohol well into the early hours of the morning. Also, a 7am finish would still cause noise nuisance, regardless of whether it was a weekday or weekend morning.

Mr Mufwankolo expressed surprise that this was the first incident of TENs being refused, when all TENs had been granted for the past five years until 7am and 9am on Christmas and New Year Eve.

The Committee adjourned to consider their decision.

## **RESOLVED**

The Committee carefully considered the application for nine Temporary Event Notices, the representations made by the Enforcement Response Team, the Metropolitan

Police, the Premises Licence Holder, the Council's Statement of Licensing Policy and the Section 182 Guidance.

The Committee resolved to refuse the TENs applications as, if the events were allowed to go ahead, it would undermine the licensing objectives of the prevention of crime and disorder, and the prevention of public nuisance.

The Committee considered the evidence that in July and August 2016, the premises had been associated with noise nuisance, and that a fight had occurred on 29 August 2016. These incidents arose in the early hours of the morning, around the time that, and after the licensable activities should have ceased. In particular, CCTV evidence showed large groups of people inside and outside the premises after the venue should have been closed and licensable activities ceased, with no effort being made to clear and close the venue.

The Committee considered the Enforcement Response Team's evidence of noise nuisance complaints made by residents living in close proximity, and visits made in response to these had found a public nuisance to be occurring. These incidents were the subject of a review application heard on 15 September 2016.

The Committee considered the noise and public nuisance associated with the premises in the early hours of the morning and the evidence from the Premises Licence Holder that he allowed patrons to leave in small groups to mitigate the noise nuisance caused, but it was noted that this meant that patrons were leaving the premises well beyond the closing time. In addition, the Premises Licence Holder indicated that because of their backgrounds, his clientele were particularly prone to talking loudly, and this needed to be accepted. The Premises Licence Holder demonstrated a lack of understanding that it was his responsibility to ensure that patrons both leaving and trying to enter the premises were not causing a nuisance to local residents. Given the evidence of the mismanagement of the premises in the early hours of the morning, the Committee felt that granting the applications and extending the hours to between 4am to 7am and 4am to 9am would have a seriously detrimental impact on residents and their children's ability to sleep during these hours, some of which would occur on a Monday morning (which would be a work / school day).

The Committee decided that none of the existing conditions regarding noise control measures would be sufficient to mitigate this impact and promote the licensing objective of the prevention of public nuisance.

The Police gave evidence and showed CCTV footage of out of hours alcohol sales, and regulated entertainment taking place after the permitted hours. The Committee was persuaded by the Police representations that despite the best efforts of the Premises Licence Holder, the risks of public nuisance and crime and disorder would

remain high if the events were allowed to go ahead. Extending the hours of alcohol sales by 3 or 5 hours could lead to extreme intoxication, thus increasing the risk of disturbance throughout the night.

The Committee did not consider that there were any existing conditions on the licence that could mitigate these risks, such that events could be allowed to proceed without the undermining of the licensing objectives.

The Committee noted that following the review of the Licence on 15 September 2016 it had resolved to reduce the operating hours of the premises in order to promote the licensing objectives and had imposed conditions to address public nuisance, however, the decision on review is being appealed and those conditions and the reduced hours have therefore not taken effect.

The Committee noted the applicant's representation that he had been granted TENS allowing him to operate until 7am and 9am in the past, but not withstanding this, it had to consider the recent events and the objections raised by the Police and Enforcement Response, and make a determination having regard to that evidence.

CHAIR: Councillor Toni Mallett

Signed by Chair .....

Date .....